



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HEDGEYE RISK MANAGEMENT, LLC,

Plaintiff,

- against -

DARIUS DALE, et al.

Defendants.
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21-CV-3687 (ALC) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order resolves the parties' respective requests with respect to sealing of the Fourth Amended Complaint and Exhibits thereto filed by Plaintiff. (See Dkts. 626, 631, 632.) Plaintiff seeks to maintain under seal Exhibits A, B, I, R, and X. Defendants seek to maintain under seal Exhibit C, D, E, F, and R.

A Complaint is a judicial document carrying a strong presumption of access. *Bernstein v. Berstein Litowitz Berger & Grossman LLP*, 814 F.3d 132, 139 (2d Cir. 2016). The parties assert that the exhibits they wish to remain under seal contain confidential business information. The Court has reviewed the exhibits and finds nothing of a confidential nature that justifies sealing with respect to exhibits A, B, I, and X. Indeed, if Plaintiff believed those particular documents – an employment letter (dated from 2010 no less) and some emails – warranted keeping under wraps, Plaintiff simply could have opted not to attach them to the Fourth Amended Complaint and would still be able to refer to them in the pleading without specifying any confidential information that might otherwise appear in those documents.

The Court reaches a different conclusion with respect to exhibits C, D, E, F, and R. Each of those documents consists of emails produced by Defendants during discovery

and designated by them as Highly Confidential pursuant to the protective order governing production of confidential information in this case. Based on the Court's review, those items contain confidential business information (such as pricing and business strategy). And, unlike Plaintiff, Defendants did not voluntarily include their own documents in a judicial filing; rather, Plaintiff used confidential documents produced by Defendants and attached them to Plaintiff's filing.

Accordingly, Plaintiff's motion is granted in part and Defendants' motions are granted. Exhibits C, D, E, F and R to the Fourth Amended Complaint (and any disclosure of that confidential information in the body of the Fourth Amended Complaint) may remain under seal for now. By January 3, 2024, Plaintiff shall file copies of the Fourth Amended Complaint that comply with the foregoing.

The Clerk of Court is respectfully directed to terminate the letter motion at Dkt. 626.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal stroke extending to the right.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: December 13, 2023
New York, New York

Copies transmitted this date to all counsel of record.